

**Title 10 MARYLAND DEPARTMENT OF HEALTH**  
**Subtitle 63 COMMUNITY-BASED BEHAVIORAL HEALTH PROGRAMS AND SERVICES**

**Chapter 06 Application and Licensure Process**

**Symbol Key**

- Roman type indicates existing text regulations
- Italic type indicates proposed new text
- [Single bracket] indicates text proposed for deletion

10.63.06.02

**.02 License Application Process for All Community-Based Behavioral Health Programs.**

A. An applicant for a license, whether accreditation or non-accreditation-based, to provide community-based behavioral health services shall:

(1) Use the application form required by the Department;

(2) Include the following information with the application:

(a) Verification that the program complies with the program descriptions and criteria set out in this subtitle;

(b) Attestation of compliance with relevant federal, State, or local ordinances, laws, regulations, and orders governing the program;

(c) Disclosure of the following:

(i) Any revocation of a license, certificate, or approval issued within the previous 10 years from any in-State or out-of-State provider previously or currently associated with the applicant, including deficiency reports and compliance records;

(ii) Whether the applicant, or a program, corporation, or provider previously or currently associated with the applicant, has surrendered or defaulted on its license, certificate, or approval for *any reasons or had it revoked*, related to disciplinary action, within the previous 10 years;

(iii) The identity of any individual who has served as a [corporate officer] *governing body member, required management staff member or key staff member, as defined in this regulation*, for the provider who has had a license, certificate or approval revoked, or has surrendered or defaulted on [an approval] *any approved* license, certificate or approval, for [reasons related to disciplinary action] *any reason*, within the previous 10 years; and

(iv) Any criminal conviction of [the applicant, or the owner, program director, or other staff] *a member of the governing body, required staff, or key staff* of the applicant;

(v) *If any governing body members, key or required management staff of the applicant owe money to the Department.*

*(vi) A listing of all individuals who have five percent or more ownership stake in the organization. If a non-profit, a listing of the names and contact information of all Board members.*

*(vii) The names of any other behavioral health services organizations in which the applicant or associated owners have, or have had, an ownership interest in the ten years prior to application.*

*(viii) Information concerning any license or certification held by the applicant under Health Occupations Article or Health-General Article, Annotated Code of Maryland including the prior or current operation by the applicant of a health care facility or similar health care program;*

**(3) Include the following documents with the application:**

**(a) A copy of the agreement to cooperate between the program and the [CSA, LAA, or LBHA,]LDA as appropriate;**

**(b) Copies of all applicable permits required by local jurisdictions *as requested by the Department*, including fire, safety, and health, for each proposed site, if the program will provide services at a site whose primary function is the delivery of behavioral health services; [and]**

**(c) A copy of the provider organization's certificate of good standing from the Maryland Department of Assessments and Taxation, issued within the current tax year at the time of application.**

**(d) A policy statement and attestation prohibiting a conflict of interest between the interests of the provider and those of the individual receiving services;**

**(e) An organizational chart which includes the names, roles and professional titles of all staff.**

**[(c)](f) All documentation supporting or demonstrating the information disclosed under §A(2)(c) of this regulation;**

**(4) (text unchanged)**

**(5) Submit the completed application to the Department's designated [approval]licensing unit, identifying:**

**(a) The services that the applicant would provide if licensed; [and]**

**(b) The physical sites where the services would be provided; and**

**(c) Verification that the site is owned, leased, or otherwise under the control of the applicant or that, if the site is sub-leased, that this arrangement is allowed under lease terms;**

**(6) Information demonstrating financial [or]and administrative ability to operate a program in compliance with this chapter, which shall include a business plan and 1-year operating budget;**

***B. All sites require on-site inspections to ensure program safety and suitability by an approved Accreditation Organization, BHA, or BHA's designee, prior to initial licensure.***

[B.]C. If the application submitted under §A of this regulation is incomplete or missing any of the documentation required by this regulation, the application shall be returned to the program to provide the missing information, and processing of the application shall stop until the information is provided.

*D. The applicant shall submit and keep updated contact information which may be used by the Department for communication, to include:*

*(1) Name of designated contact for formal notifications.*

*(2) An email address for the provider organization, to be kept current by the provider, for ongoing communication of alerts and notifications by the Administration.*

*(3) A mailing address to be used for formal actions.*

*E. The Department may elect to require that applicants for licensure attend an orientation and training in compliance with State regulations and clinical best practices prior to granting licensure to operate.*

10.63.06.03

### **.03 Additional Application Requirements for Licenses Requiring Accreditation.**

A. (text unchanged)

B. A program applying for an accreditation-based license to provide community-based behavioral health services shall submit with the program's application:

(1) (text unchanged)

(2) Any corrective action plans required by the behavioral health accreditation organization survey report of the program; [and]

(3) The final letter or certificate issuing accreditation for the program[.]; and

*(4) The findings, reports, and program improvement plans arising from any accreditation survey by any behavioral health accreditation organization during the previous 3 years.*

C. Before determining whether a program requiring an accreditation-based license to provide community-based behavioral health services is eligible for licensure, the Department's designated [approval] *licensing* unit may conduct an on-site review in cases in which significant concerns have been raised regarding the *structure or* operations of the program or the organization that accredited the program.

10.63.06.05

### **.05 Issuance and Duration of Accreditation-Based and Non-Accreditation-Based Licenses.**

A. If the Department's designated [approval] *licensing* unit determines that a program is eligible for a license to provide community-based behavioral health services, whether accreditation-

based or non-accreditation-based, the Department's designated [approval] *licensing* unit shall issue a license to the program that specifies the:

(1)—(4) (text unchanged)

B. The duration of the license:

(1) For an accreditation-based license, [shall equal] *may not exceed* the accreditation period, *not to exceed 3 years*, plus [3] 6 months; and

(2) For a non-accreditation-based license, may not exceed 3 years *plus 6 months*.

C. The Department's designated [approval] *licensing* unit shall notify the following when a license has been issued for a program:

(1) (text unchanged)

(2) The [CSA, LAA, or LBHA, as] appropriate *LDA*, of the jurisdiction in which the program is providing or will provide services;

(3)—(4) (text unchanged)

D. (text unchanged)

E. In order to be approved, an application for renewal of a license and supporting documentation shall be received by the Department or its designee at least [60] 30 days before the expiration of the program's current license.

F. If the program fails to submit the application and supporting documentation within the timeframe established in §E of this regulation, the program's license [shall] *may* be suspended from the license expiration date until the issuance of a new license for the program.

G. [If the Department's designated approval unit suspends the program's license in accordance with §F of this regulation, the program director shall immediately take the actions described in Regulation .11D of this chapter.] *A program shall give notice to BHA's Licensing Unit at least 60 days before expiration of its license of any plans to change Accreditation Organization.*

10.63.06.06

#### **.06 Denial of License to Provide Community-Based Behavioral Health Services.**

A. The Department may deny *or revoke* a license to provide community-based behavioral health services to:

(1) An applicant, if the Department's designated [approval] *licensing* unit determines that the application does not meet the licensure requirements;

(2)—(3) (text unchanged)

[(4) Any program that discontinues operations without complying with Regulation .10 of this chapter.]

- (4) An applicant that has failed to disclose any information under COMAR 10.63.06.02.A 2 (c).*
- (5) An applicant that has falsified information provided in connection with the application, which may result in exclusion of the applicant, the program, its key staff and required management staff from further applications for a period of up to two years.*
- (6) Any program whose owner/operator, key staff or required management staff is associated with a program that has discontinued operations without complying with Regulation .10 of this chapter in the past ten years.*
- (7) Any program which has been denied, or has lost, accreditation.*
- (8) Any applicant or program owing money to the Maryland Department of Health, or with a lien against the program from state or federal government.*
- (9) An applicant that has operated a program which has had sanctions imposed or deficiencies cited within the last 2 years and has not corrected the deficiencies which present a risk to the health or safety of participants, may not apply for a license until those deficiencies are corrected and approved by the Department.*
- (10) An applicant for a license whose prior record, in the opinion of the Department demonstrates:*
- (a) A history of violation of COMAR 10.63 regulations;*
  - (b) Convictions as described in:*
    - (i) 42 U.S.C. § 1320A-7(A); or*
    - (ii) Criminal Law Article, § 14-101, Annotated Code of Maryland; or*
  - (c) Behavior which demonstrates a significant pattern of non-compliance with statutes and regulations and suggests inability to follow these regulations.*
- (11) In making a determination about a license application, the Department shall consider the following factors:*
- (a) The age at which the crime was committed;*
  - (b) The circumstances surrounding the crime;*
  - (c) The length of time that has passed since the crime;*
  - (d) Subsequent work history;*
  - (e) Employment and character references; and*
  - (f) Other evidence that demonstrates whether the applicant poses a threat to the health or safety of residents.*

B. If the Department's designated [approval] *licensing* unit denies licensure to an applicant under this chapter, the Department's designated [approval] *licensing* unit shall give written notice of the proposed denial to the program.

C. (text unchanged)

10.63.06.07

**.07 License Modification.**

A. A program may not change its program sites by adding, closing, or moving locations without prior approval from the Department's designated [approval] *licensing* unit.

B. To request a change in its program sites by adding, closing, or moving locations, a licensed program shall submit to the Department's designated [approval] *licensing* unit:

(1)—(2) (text unchanged)

(3) Evidence that the program has notified the appropriate [CSA, LAA, or LBHA] *LDA* of the proposed program modification;

(4)—(5) (text unchanged)

C. To request a change in its service array, a licensed program shall submit to the Department's designated approval unit:

(1) (text unchanged)

(2) Evidence that the program has notified the appropriate [CSA, LAA, or LBHA] *LDA* of the proposed program modification.

D. Before being approved for any modification described in this regulation, the following programs shall pass an inspection of the sites by the *approved accreditation organization*, Department or its designee:

(1)—(2) (text unchanged)

E. If the Department's designated [approval] *licensing* unit approves the application modification submitted under §B or C of this regulation, the existing program license shall extend to the additional program and additional site, as applicable.

*F. If a Program changes sites without prior approval from the designated licensing unit, the Department may suspend the license at both the new and old sites.*

10.63.06.08

**.08 Waivers and Variances.**

A. (text unchanged)

B. Variances.

(1) If a program is *to be* licensed under this chapter, the Administration may grant a variance for a regulation if the Administration:

(a)—(b) (text unchanged)

(2)—(3) (text unchanged)

(4) The Administration shall:

(a) Issue a written decision on the request for a variance, *within six months of receipt of a complete application*, including the reason or reasons for granting or not granting the variance;

(b) Send the decision to the:

(i) (text unchanged)

(ii) [CSA, LAA, or LBHA,] *LDA* as appropriate; and

(iii) Department's designated [approval] *licensing* unit; and

(c) (text unchanged)

10.63.06.10

#### **.10 Planned Discontinuation of Program Operations.**

A. If a program licensed to provide community-based behavioral health services intends to discontinue [operations,] *operating any program or service at any program sites*, the program director shall, no less than 60 calendar days before the program intends to discontinue operations, submit to the Department's licensure unit, the Administration, and the [CSA, LAA, or LBHA] *LDA*, as appropriate, its written plan for:

(1)—(5) (text unchanged)

B. Within 30 days after receipt of the program's request to discontinue operations, the Department's designated [approval] *licensing* unit shall:

(1) (text unchanged)

(2) If the plan is unacceptable, meet with the program and the [CSA, LAA or LBHA] *LDA* as appropriate, to make a plan that protects the health, safety, and welfare of the individuals served by the program and program staff.

C. The program may not discontinue operations until the Department's designated [approval] *licensing* unit authorizes the discontinuation.

D. (text unchanged)

E. At all times during the discontinuation process, the program shall cooperate with the Administration, the Department's designated approval unit, and the [CSA, LAA or LBHA] *LDA*, as appropriate.

F. (text unchanged)

G. If a program licensed to provide community-based behavioral health services intends to discontinue a service, the program director shall provide immediate notification to the:

[(1) CSA;

(2) LAA;

(3) LBHA; or

(4) OHCQ.]

(1) LDA in each jurisdiction affected; and

(2) BHA Office of Licensing.

10.63.06.11 NEW

### ***.11 Unplanned Discontinuation of Program Operations***

*A. If a program licensed to provide community-based behavioral health services may need to temporarily or permanently discontinue operating any program or service at any of its sites due to unforeseen circumstances, the program director shall immediately inform the LDA and BHA's Licensing Unit, and if applicable, the State Opioid Treatment Authority.*

*B. In notifying BHA and the LDA, the program shall provide a proposed written emergency plan. BHA has the right to approve the plan or to require modifications thereto.*

*C. The written plan shall include:*

*(1) Number of service recipients affected by the discontinuation of services.*

*(2) Types of services affected.*

*(3) Expected/estimated duration.*

*(4) How services will be provided.*

*(5) Location where temporary services will be provided, if applicable.*

*(6) Plan to transition service recipients to other behavioral health services.*

*(7) Plan for storing and protecting all records.*

*(8) Plan for notification of employees, contractors, consultants, and consumers.*

*D. BHA and the LDA have the right to contact service recipients to discuss the discontinuation of services and ensure the continuity of care.*

*E. Within 7 days after receipt of the program's request to discontinue operations, the BHA's Licensing Unit may:*

*(1) Notify the program in writing whether its plan is acceptable; and*



*(2) If the plan is unacceptable, meet with the program and the LDA as appropriate, to make a plan that protects the health, safety, and welfare of the individuals served and program staff.*

*F. The program may not discontinue operations until the Department's designated licensing unit authorizes the discontinuation.*

*G. Once the Department has approved the discontinuation plan, the program shall implement the plan.*

*H. At all times during the discontinuation process, the program shall cooperate with the Administration, the Department's designated licensing unit, and the appropriate LDA.*

*I. If a program that is discontinuing operation fails to comply fully with §§A—E of this regulation, the Department may, for a period of 10 years, deny any future application for a license submitted by the program, governing body members, or principals of the program.*

*J. If a program licensed to provide community-based behavioral health services intends to discontinue a service, the program director shall provide immediate notification to the:*

*(1) Appropriate LDA in each jurisdiction affected; and*

*(2) BHA*

*10.63.06.12*

**[.11] .12 Summary Suspension.**

A.—D. (text unchanged)

*10.63.06.13*

**[.12] .13 Notice of Deficiencies.**

A. If the Department determines that a program licensed under this chapter has violated any provision of this chapter, but does not summarily suspend the program, the Department's designated [approval] *licensing* unit shall provide the program with a notice of deficiencies.

B. In the notice of deficiencies, the Department's designated [approval] *licensing* unit shall list each failure to comply with a requirement, including identifying the requirement and the basis for the finding.

C. Plan of Correction.

(1) The program shall submit a plan of correction to the Department's designated [approval] *licensing* unit within 10 working days of receipt of the notice of deficiencies, stating how and when each failure to comply shall be corrected *how its reoccurrence will be prevented, and outlining responsibility and timelines for correction.*

(2) The Department's designated [approval] *licensing* unit may require that the POC be submitted sooner than 10 working days when the nature of the noncompliance warrants a more immediate response, as determined by the Department's designated [approval] *licensing* unit.

(3) The director of the Department's designated [approval] *licensing* unit may grant an extension of not more than 30 days for the submission of the POC.

D. (text unchanged)

10.63.06.13

**[.13] .14 License Revocation.**

A. If the Department's designated [approval] *licensing* unit determines that a program licensed under this chapter has violated a requirement of this chapter, the Department may revoke the license.

B. If the Department's designated [approval] *licensing* unit determines that the program has violated a requirement of a sanction imposed under Regulation .15 of this chapter, the Department may revoke the license.

C. (text unchanged)

**[.14] .15 Intermediate Sanctions.**

A. If the Department determines that a program licensed under this chapter has violated a requirement of this subtitle, the Department's designated [approval] *licensing* unit may take one or more of the following actions:

(1)—(5) (text unchanged)

(6) Require the establishment of an escrow account; *that may be directed to specific, identified purposes at the direction of the Department*;

(7) Impose a civil money penalty, in accordance with [this chapter] *COMAR 10.63.09*.

B. (text unchanged)

**[.15] 16 Directed Plan of Correction.**

A. If the Department determines that a program licensed under this chapter has violated any requirement of this chapter, the Department's designated [approval] *licensing* unit may impose a directed plan of correction, in addition to any intermediate sanctions imposed in accordance with this chapter.

B.—C. (text unchanged)

**[.16] .17 Settlement Agreement.**

A.—C. (text unchanged)

**[.17] .18 Initiation of Receivership.**

(Text unchanged)

10.63.06.19

### **.19 Program's Right to a Hearing on Proposed Sanctions.**

A. A program licensed under this chapter that is aggrieved by the proposal of the Department's designated [approval] *licensing* unit to take any of the following actions may appeal the Department's decision by filing a request for an administrative hearing in accordance with Regulation .20 of this chapter:

(1)—(6) (text unchanged)

B. (text unchanged)

### **.20 Hearing Procedures.**

A. If the Department's designated [approval] *licensing* unit proposes to take an action listed in Regulation .19 of this chapter, the Department shall deliver a written notice of the proposed action to the program director, in accordance with the provisions of COMAR 10.01.03.05.

B. Within 10 working days after receipt of the notice of the proposed action, the program may submit to the Department, at the address identified in the notice, a written request for a hearing, with copies to the:

(1) (text unchanged)

(2) [CSA, LAA, or LBHA] LDA, as appropriate; and

(3) Director of the Department's designated [approval] *licensing* unit.

C. If the program does not submit to the Department a hearing request that is postmarked within 10 working days after the date on the notice:

(1) (text unchanged)

(2) The Department's designated [approval] *licensing* unit may implement the proposed action.

D.—E. (text unchanged)

10.63.06.21

### **.21 Deadlines and Effective Dates of this Chapter.**

A. Accreditation-based Licenses. The following shall apply for programs that are required by law and this chapter to be accredited to be licensed:

(1) A program may not operate on or after April 1, 2018 without a license;

[(2) To be licensed on or before April 1, 2018, a program shall submit a completed and accurate application to the Department's designated approval unit before January 1, 2018;

(3) An accreditation-based license may be issued on or after, and not before, January 1, 2017;

(4) The Department's designated approval unit shall begin accepting applications for accreditation-based licenses on October 1, 2016;]

[(5)] (2) (text unchanged)

[(6)] (3) The Department's designated [approval] *licensing* unit may not accept an application for initial certification or approval under COMAR Title 10, Subtitles 21 or 47 after September 30, 2016;

[(7) A program with a certification or approval under COMAR Title 10, Subtitles 21 or 47:

- (a) May apply for renewal of the certification or approval before January 1, 2018;
- (b) If eligible for renewal, shall receive a certification or approval, valid until April 1, 2018; and
- (c) May not operate under the certification or approval after March 31, 2018.

(8) A program that is certified or approved based on deemed status in accordance with COMAR 10.21.16.10 or COMAR 10.47.04.05 shall receive a license, which shall be effective during the current accreditation period; and]

[(9)](4) If the Department's designated [approval] *licensing* unit cannot issue a license by April 1, 2018 for a program that submits a completed, accurate application for a license [before January 1, 2018], the Department's designated [approval] *licensing* unit shall extend the expiration date of the existing approval or certification to complete the license application process.

B. Non-Accreditation-Based Licenses. The following shall apply for programs that are not required by law and this chapter to be accredited to be licensed:

- (1) A program may not operate on or after April 1, 2018 without a license;
- (2) A program that is certified or approved under COMAR Title 10, Subtitles 21 or 47, may operate under those subtitles until the expiration of the term of its current certification or approval[, but not after March 31, 2018];
- (3) The Department's designated [approval] *licensing* unit may not accept an application for initial certification or approval under COMAR Title 10, Subtitles 21 or 47, after September 30, 2016;
- (4) (text unchanged)

[(5) To be licensed on or before April 1, 2018, a program shall submit a completed and accurate application to the Department's designated approval unit before January 1, 2018;

(6) A license may be issued on or after, and not before, January 1, 2017; and]

[(7)] (5) If the Department's designated [approval] *licensing* unit cannot issue a license by April 1, 2018 for a program that submits a completed accurate application for licensure before January 1, 2018, the Department's designated [approval] *licensing* unit shall extend that expiration date of the existing approval or certification to complete the license application process.

C. Applicability Dates of Regulations. Current chapters of regulations under COMAR 10.21 and 10.47 shall remain in effect concurrently with the regulations in this chapter until [April 1, 2018] *revoked*.

DRAFT